

07 EXECUTIVE DEPARTMENT

105 STATE PLANNING OFFICE

Chapter 20: QUALIFICATIONS FOR PERSONS ELIGIBLE TO PREPARE
COMPREHENSIVE ECONOMIC IMPACT STUDIES

SUMMARY: This chapter establishes the criteria the State Planning Office uses to identify consultants that are qualified to prepare comprehensive economic impact studies of large-scale retail development. The Office uses this rule to develop a list of qualified preparers from which municipalities may choose when implementing Maine’s Informed Growth Act (30-A MRSA c. 187, sub-c. 3-A).

SECTION 1. GENERAL PROVISIONS AND PROCEDURES

1. Purpose

The purpose of this Chapter is to establish the process and criteria the State Planning Office uses to select consultants that are qualified by education, training, and experience to prepare comprehensive economic impact studies as part of municipal review of land use permit applications for large-scale retail development proposals.

2. Definitions

The following terms, as used in the Act and this Chapter, have the following meanings unless the context indicates otherwise:

- A. Act: “Act” means Maine’s Informed Growth Act, P.L. 2007, Chapter 347
- B. Applicant: “Applicant” means an individual or an individual authorized by his or her employing firm, company, corporation, nonprofit or public corporation, nonprofit organization, government entity, or academic institution seeking designation as a qualified preparer under this Chapter.
- C. Consultant: “Consultant” means an individual or an individual authorized by his or her employing firm, company, corporation, nonprofit or public corporation, nonprofit organization, government entity, or academic institution doing business in the state of Maine.
- D. Large-scale Retail Development: “Large-scale Retail Development” means a development project as defined in 30-A MRSA §4366(6)
- E. Municipal Reviewing Authority: “Municipal Reviewing Authority” means the municipal entity reviewing land use permits, as defined in 30-A MRSA §4366(7).

- F. Office: “Office” means the State Planning Office.
- G. Qualified Preparer: “Qualified Preparer” means a consultant that is identified by the Office in accordance with this Chapter as qualified by education, training, and experience to prepare comprehensive economic impact studies to implement the Act.
- H. RFQ: “RFQ” means request for qualifications.
- I. Study: “Study” means a comprehensive economic impact study prepared in accordance with 30-A MRSA §4367(4) to aid a municipality in evaluating the impacts of proposed large-scale retail development.

SECTION 2. QUALIFIED PREPARERS

1. List of Qualified Preparers

The Office will develop a list of qualified preparers for use by municipal reviewing authorities and land use permit applicants in accordance with 30-A MRSA §4367. The Office will provide the list of qualified preparers to a municipality or land use permit applicant upon request.

The Office will evaluate applicants’ qualifications against the criteria in Section 3.1 of this Chapter. Those applicants’ whose education, training, and experience meet the qualifications outlined in this Chapter and who are in accord with all other provisions of this Chapter will be placed on a list of qualified preparers maintained by the Office.

The Office will not endorse or otherwise suggest, encourage, or recommend any consultant on the list of qualified preparers.

2. Selection Process

Interested applicants shall provide their qualifications in a manner prescribed by the Office. The Office will identify required submission information and submission procedures through a request for qualifications.

3. Selection Time Line

The Office will provide two ways for interested applicants to be considered for the Office’s list of qualified preparers.

- 1. Biennially, the Office will publicly seek consultants to be placed on a list of qualified preparers. The Office will publicly advertise to notify interested applicants of the opportunity to submit qualifications through a RFQ process in accordance with Section 2.2 of this Chapter. The Office

will issue RFQ instructions no later than November 1 and complete its review by December 30 in the odd-numbered years.

2. For those consultants new to the field or who miss the biennial advertised RFQ public notice, the office will accept qualifications on a rolling basis provided that the consultant provides all of the information requested in the biennial RFQ instructions under Section 2.2. Proposals that do not contain all the information required by the Office will be returned as incomplete. Within 30 days of submission, the Office will evaluate consultants' qualifications and, if found to meet the qualifications in Section 3, will place the consultant on its list of qualified preparers.

Consultants that have been previously evaluated and determined to be a qualified preparer in accordance with this Chapter must notify the Office in writing no later than December 30 of the odd-numbered year of their wish to remain on the list of qualified preparers. Qualified preparers that do not notify the Office in accordance with this section shall be removed from the Office's list of qualified preparers. In their written request, the qualified preparer must certify that the information contained in their original submission proposal reflects the current business situation and is true and accurate. Qualified preparers whose original submission has changed substantially must re-submit their qualifications in accordance with Section 2.3(2) of this Chapter. A qualified preparer may request at any time, in writing, to be removed from the list of qualified preparers.

SECTION 3. QUALIFICATIONS FOR PREPARERS

1. Criteria

The criteria of this Chapter are based on the Act's substantive requirements for the content of a comprehensive economic impact study (30-A MRSA §4367 (4)).

Consultants on the Office's list of qualified preparers must:

- 1) have an educational background in economics or a related field; and
- 2) demonstrate experience and training in assessing the potential impacts of a large-scale retail establishment.

The applicant's education, experience, and training should:

- 3) demonstrate knowledge of applied research principles and techniques as they relate to state, local, and regional economic development and retail or other market analyses; and

- 4) demonstrate knowledge of the data and data sources necessary to identify the potential costs and benefits of a large-scale retail establishment.

The applicant shall also provide a minimum of three references of individuals who are familiar with the applicant's work on similar projects and other information as requested to assist the Office with evaluating the applicants' qualifications.

2. Scoring

The Office may establish a minimum scoring threshold, below which applicants will not be qualified for purposes of this Chapter.

SECTION 4. COMPLAINTS

A municipal reviewing authority (by majority vote) or land use permit applicant actively engaged in a study project with a consultant from the Office's list of qualified preparers that wishes to make a complaint about the performance of that qualified preparer may do so in writing to the State Planning Office. The complaint should identify the complainant and include contact information and specific details about the complaint.

If the Office receives a complaint about a consultant from a municipal reviewing authority or land use permit applicant actively engaged in a contract with that consultant, the Office will, upon request, make the written complaint available to any municipal reviewing authority or land use permit applicant requesting the list of qualified preparers, along with the complainant's contact information.

SECTION 5. PAYMENT OF STUDY FEE

The Office will not evaluate the applicants' fee schedule or assist with negotiating fees on behalf of a municipal reviewing authority or land use applicant.

The Office may establish terms governing the disbursement of land use applicants' permit fees to municipalities, in accordance with generally-accepted accounting practices.

A memorandum of agreement between the municipality and the Office shall be developed on payment terms in accordance with 30-A MRSA §4367(3).

The Office will charge against the permit fee an amount of \$1,000 to cover its costs to record, administer, and disburse the fee, in accordance with 30-A MRSA §4367(3).

SECTION 6. DISCLOSURE OF RELATIONSHIPS

A consultant selected from the Office's list of qualified preparers for a particular study project shall disclose to the municipal reviewing authority and land use permit applicant any current or

recently-concluded relationship (within the past three years) between the qualified preparer and any member of the municipal reviewing authority or potential opponents or proponents of the land use permit applicant for that particular study.

SECTION 7. APPEAL

Applicants submitting qualifications in accordance with Section 2 who are not placed on the Office's list of qualified preparers may appeal a qualification decision. An aggrieved person may request a review of the qualification decision from the Director of the State Planning Office in writing within 15 days of notification of the qualification decision.

The Director may delegate the appeal to another senior staff person who was not involved in the original evaluation decision.

In considering an appeal, the Director shall:

1. examine the applicants qualifications submission against the criteria in Section 3.1;
and
2. determine whether the Office followed the required process and reasonably interpreted the facts to reach the conclusion upon which the evaluation decision under appeal was based.

Within 45 days of the request for review, the Director shall make a decision and notify the aggrieved party in writing whether the applicant is to be placed on the Office's list of qualified preparers. The decision of the Director constitutes final agency action.

STATUTORY AUTHORITY: 30-A MRSA §4367 (1)

EFFECTIVE DATE: October 19, 2007